

REMARKS

Applicants respectfully request reconsideration and allowance of claims 1-20 that are pending in the above-identified application.

Initially, Applicants respectfully request that the finality of the Office Action be reconsidered and withdrawn. Applicants' amendments have not necessitated the new grounds of rejection presented in the present Office Action. The same references known and applied from the first Office Action were applied here again, but for the application of a new reference to two claims of the 20 claims, and that new reference was available at the time of the first Office Action. Applicants respectfully request removal of the finality.

The Examiner has rejected claims 1-9 and 19-20 under 35 U.S.C. § 103(a) as being unpatentable over Heo in view of Kerchner. Applicants respectfully traverse this rejection.

Initially, Applicants point out that this and the other rejections in the Official Action are fraught with hindsight reconstruction of the invention. This is a most classic case of the improper use of hindsight. Applicants point this out upfront because it is recognized that it is difficult to review an application, and then, upon analysis of the claims, put aside that knowledge to consider what one of ordinary skill in the art would have known. Although difficult in application, one of ordinary skill in the art would know the prior art, but would not know the Applicants' disclosure.

Applicants make specific reference to Applicants' remarks as set forth in the previous amendment with respect to the Kerchner reference. Those remarks render it clear that Kerchner and Heo are improperly combined. The Examiner admits that Heo does not disclose several features required in the

respective claims. In particular, with respect to claims 1 and 20, the Examiner states that Heo does not disclose a display built within the door of the microwave and a shield protecting the display. This is true. Likewise, by the withdrawal of the § 102 rejection set forth in the previous Office Action, the Examiner acknowledges that Kerchner does not disclose each and every element in claim 1, and particularly a display integrally and non-portably built within the door. The arguments relative to Kerchner's shortcomings are evident from the previous response to the previous Office Action. Rather than repeating the same here, Applicants urge the Examiner to review the discussion of Kerchner in the last response. The Kerchner disclosure is very specific in its teachings to a moveably mounted communications module. In the present rejection, the Examiner states conclusorily that it would have been obvious to one of ordinary skill in the art to modify Heo to use the door as a display screen as purportedly taught by Kerchner. The Examiner comes to this conclusion, without analysis, but certainly with hindsight. The Examiner states that doing so would help increase the dimension of the display screen. But there is nothing in Heo or in Kerchner that suggests, implicitly or explicitly, that a display could be integrally and non-portably built within the door, or that size was even a consideration. Heo makes no hint that the small Braun tube 47 set forth separately from the microwave door could be enlarged or placed on the door. There is simply no suggestion to modify Heo or to modify Kerchner as the Examiner has presented in the present Office Action.

As set forth in the response to the December 18, 2002 Office Action, the § 103 analysis is quite rigorous, and the statute and the case law require that there be a specific suggestion or motivation to combine references. It is one of ordinary skill in the art, having knowledge of the prior art,

but not of Applicants' application, that is the benchmark against which the requirements of suggestion and motivation are judged.

One would have to move the Braun tube 47 from the device in Heo into the door in an integral and non-portable manner in order to satisfy that particular element of claim 1 (apart from others). This hypothetical exercise would not only be one performed without suggestion, implicit or explicit, in Heo, but also one that does not find such a suggestion in Kerchner.

Moreover, Kerchner, at least for the reasons set forth in response to the June 5, 2003 Office Action, does not include this display feature as it is not a display that is integral and non-portably in the door. Thus, even if the improper combination were allowed to stand, there is no teaching of all elements, the display feature in claim 1, at the very least, not being shown or described in the prior art.

Interestingly, for all of its disclosure of various "ideas" – much of which is unsupported – the Kerchner reference does not disclose a television tuner in the housing of the appliance as set forth in claim 3. Rather, the Kerchner reference discusses the use of flying leads to connect the communications network to the appliance. While it discusses alternative arrangements of a communications module (the removable item containing the display), it does not disclose the inclusion of the core processing module 21 within the housing of the appliance.

It is also unclear in Kerchner that any microprocessor is disclosed within the housing of the appliance. Again, Kerchner is concerned mainly with the specific structure of its removable communications module, cable modems attachable to the communications module, broad and unsupported "ideas," and other

items unrelated to a display that is integral and non-portably in the door, as in claim 1.

With respect to claim 19, there is no disclosure of a modified hinge for supporting a door having an integrally and non-portably built display. Indeed, instead of requiring such a hinge, Kerchner calls for a specifically structured communications module within a specifically structured frame. Being removable, it is likely not a particularly heavy unit. Regardless, Kerchner and Heo are silent on the structure of any hinges. It is improper to assume that the structure of the hinges would need to be modified. This assumption stems directly from the knowledge of Applicants' invention, something one of ordinary skill in the art would not have in his possession.

Claim 20 calls for a shield to protect the display and associated components from the affected environment in the interior, the display again being integrally and non-portably built into the door.

The Examiner admits that the video generating apparatus as claimed in claim 9 is not disclosed in Heo. Again, the references are not combinable and in any event, do not disclose a display that is integrally and non-portably built into the door.

The Examiner further admits that Heo does not disclose a keyboard for controlling the microprocessor as specified in claim 5. This is indicative of the limited nature of Heo. Again, however, there is no suggestion to modify Heo, Heo being fairly limited in its disclosure, just as Kerchner is limited in its disclosure. Heo is concerned with a self-contained unit and not an overall system.

In light of the above, independent claim 1 is believed to be allowable in its present form, and the claims depending from claim 1 are believed to be in condition for allowance, not

only for reason of the above remarks and their dependency on claim 1, but also by reason of the additional features recited therein, some of which have been pointed out.

The Examiner has also rejected claims 10-13 and 15-17 under § 103(a) as being unpatentable over Heo in view of Kerchner. Although this rejection is set forth separately from the previous rejection, the prior remarks relative to the improper combination of Heo and Kerchner equally apply. Also equally applying are the comments made relative to Kerchner in the last response. The Examiner is urged once again to review the remarks relative to Kerchner, as well as the above remarks relative to the improper combination of Heo and Kerchner. Applicants respectfully request withdrawal of this rejection and the previous rejection based on the improper rejection.

With respect to this second § 103(a) rejection, Applicants reiterate the above arguments relative to claim 1 as regards the display, but notes that here the display is integrally and non-portably built into the generally planar surface of the appliance, and the display covers about at least one-quarter of the planar surface. While the Examiner turns to Kerchner once again, the Kerchner reference fails even in the improper combination as its display is not integrally and non-portably built into a generally planar surface. Once again, the Kerchner reference is quite specific in the removability of the display, with very specific disclosure directed to the surround, the recess, the mounting lugs on the door panel, etc. Once again, as set forth above, Applicants consider the combination to fail even if it were proper.

With respect to the size of the display in Kerchner, there is no disclosure, and the drawings are inconsistent from drawing to drawing. Certainly, however, the display in Kerchner does not cover one-half of the planar surface as set forth in claim 12. There would be limitations to overcome in a microwave

oven as disclosed in Kerchner or Heo to enlarging the display, and thus it would not be something that one of ordinary skill in the art would even consider. Neither reference suggests overcoming these limitations, or any desire to reach a size that is one-half of the planar surface.

Turning to claim 13, the Examiner admits that Heo and Kerchner do not disclose a planar surface having the display in an integral and non-portable manner, and on different sides of an appliance from the door. The Examiner then makes a conclusion, without any suggestion whatsoever that it would be obvious to one of ordinary skill in the art to display images on appliances where the display screen would be on a different side than the door. There is absolutely no basis for this conclusion. Nothing in the prior art hints to this conclusion.

With respect to claim 16, the Examiner combines his rejection of claim 13 with claim 16. It appears, however, that the Examiner incorrectly places claims 13 and 16 together insofar as claim 16 does not require the same features as claim 13.

Turning to claim 15, the Examiner admits that Heo and Kerchner, even as combined, do not disclose a display cover for selective covering and uncovering of the display. Once again, in a conclusory manner, the Examiner simply justifies the rejection of claim 15 by stating that it is "well-known" that there is a need to cover display screens to protect from dirt. However, the Examiner has no basis for this justification and thus, for the rejection. Indeed, by way of example only, were one to visit an electronics store at the time of the invention, or even now, one would not find readily available display covers for selective covering and uncovering of displays of TVs, computer screens, etc. Moreover, of all references found, none provide such a cover. It is not an obvious variant of the invention in claim 10. The Examiner cannot uphold this

rejection by merely stating that it is well-known to do something. This is particularly so, given the other features set forth in independent claim 10.

Turning to claim 16, Applicants surmise that instead of arguing claims 13 and 16 together, the Examiner intended to argue claims 15 and 16 together. Claim 16 includes the feature of a display cover for selective covering and uncovering of the display. It also includes the feature of the display being integrally and non-portably built into the generally planar surface of the appliance. At least for the reasons set forth above, claim 16 is in condition for allowance.

Accordingly, this second § 103(a) rejection of claims 10-13 and 15-17 is believed to have been overcome. The claims dependent from the independent claims, directly or indirectly, are believed to be allowable, not only by reason of the features set forth in the independent claims, but also by reason of the features set forth in the particular dependent claims, some of which have been discussed above. Withdrawal of the rejection is respectfully requested.

In the last § 103(a) rejection, the Examiner has rejected claims 14 and 19 over Heo and Kerchner, and further in view of Roh. Withdrawal of this rejection is respectfully requested, not only by reason of the comments above, but also by reason of the following.

With respect to claim 14, Applicants specifically call out the appliance as being a refrigerator, and indicates that the planar surface is on the side of the refrigerator. This claim 14 depends from claim 10, which again includes the display being integrally and non-portably built into the generally planar surface. This claim 14 is rejected on the justification that Roh discloses a display on a refrigerator. The display in Roh is an LCD display with a key input and relates solely to the control of the refrigerator as would the display on conventional

microwave ovens. The display in Roh is clearly on the door of the refrigerator. There is no suggestion whatsoever to provide the display on any other side of the refrigerator, and to do so would be antithetical to the common use of a refrigerator, particularly where most refrigerators have only the doors exposed once they are installed for use. Once again, the Examiner has made a conclusion without any justification, and the Examiner is merely stating what is believed to have been obvious. The use of hindsight here is classic. There is no suggestion or evidence of obviousness, and without same, the rejection must fail.

Turning to claim 19, this claim concerns the hinge, as already discussed above with respect to the first § 103 rejection. Roh does not teach the modification of a hinge to support a door having a display integrally and non-portably built therein. Rather, Roh does not teach a display other than a small LCD display, such as those used on conventional microwave ovens and other appliances, and no modification of the hinges would be necessary, given the size and mass of the door with respect to the small size and small weight of the LCD display. Regardless, there is nothing in Roh, and nothing in Heo and Kerchner, to suggest the modification of a hinge as set forth in claim 19.

For the above reasons, Applicants respectfully request the rejection of claims 14 and 19 to be withdrawn.

Applicants note that claim 18 was not rejected at all in the Office Action, and thus Applicants consider the same to be allowable. This is of no surprise, given that claim 18 depends from claim 1, and further includes features not shown in the prior art.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason, the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which the Examiner might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: June 17, 2004

Respectfully submitted,

By Keith E. Gilman
Keith E. Gilman
Registration No.: 32,137
LERNER, DAVID, LITTENBERG,
KRUNHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorney for Applicants

496911_1.DOC